IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

ARBITRATION PETITION No.483 of 2006.

Itochu Corporation. Petitioner.

Vs.

Sanjay Trade Corporation
and Others. Respondents.

Mr. D. J. Khambatta, Senior Advocate with R. Chagla i/b Ms. Kamni Ahuja & Ms. Shabana Raikar for the Petitioner.

Mr. Pankaj Sawant with A. Jayakar & Ms. S. Jaydev i/b Khaitan & Jaydev for the respondents.

CORAM: D.G. KARNIK,J.
DATED: 23RD JANUARY, 2007.

P.C.:-

1. Heard the learned counsel for the petitioner and the respondents.

2. By order dated 27th October, 2004 passed in Petition (Lodging) No. 753 of 2004 filed under Section 9 of the Arbitration and Conciliation Act, 1996 (for short "the Act"). this Court granted interim relief restraining the respondents for alienating, encumbering or parting with possession or creating any third party rights in the properties mentioned in

the Schedule-I to the petition. Thereafter, that petition was withdrawn with liberty to the petitioner to move the Arbitral Tribunal for interim reliefs. The interim protection was continued for some time, to enable the petitioner to move the Arbitral Tribunal. Thereafter, an application was moved before the Arbitral Tribunal which granted similar interim relief to the petitioner.

4. Final Award has been passed by the Arbitral Tribunal on 15th September, 2006 substantially in favour of the petitioner. The present Arbitration Petition has been filed under Section 9 for the purpose of interim relief, pending execution of the Award Under Section 9 of the Act interim relief can be granted before or during the pendency of Arbitral Proceedings or at any time after making the Award but before its enforcement in accordance with Section 36 of the Act. The Award is not yet executed. On the other hand, the execution of the Award stands stayed on account of the respondents filing Arbitration Petition (bearing Lodging No. 564 of 2006) under Section 34 of the Act.

5. Interim protection was granted even before the commencement of the Arbitration proceedings and by the Arbitral Tribunal during pendency of the proceedings before it. Award is substantially in favour of the petitioner and in my view, the petitioner needs to be protected by restraining the respondents from disposing of the property before the Award can be executed.

6. No affidavit has been filed opposing the grant of relief. In the circumstances, the Arbitration Petition is allowed in terms of prayer clause (a).

7. Learned counsel for the Petitioner does not press the prayer clause (b) with liberty to make fresh application as and when required. Leave granted.

[D.G.KARNIK, J]